

1 Lord for good things that have taken place in their life. The
2 last category of calls is special requests, which includes
3 quite a variety of calls, anything from, from Miss Downing's
4 exhibit or also in, in, in some of the, like, Tab J to
5 Exhibit 33, anything from a request for a Bible; to a message
6 to a host; to a question or a complaint; or a gift request;
7 message to Paul and Jan Crouch; a referral to a local church;
8 or somebody who's in need of a referral to a local service --
9 social service agency. Your Honor, credit was given for sort
10 of directly religious activity, which the vast majority of
11 these calls represent. The Commission would at least implic-
12 itly be making some sort of judgement about the value of
13 Trinity's religion, and I believe that would be impermissible,
14 and it's inappropriate for the Commission to undertake such a
15 role. Suppose there was an Islamic or a Jewish organization
16 that offered a similar service, would the Commission get in,
17 in the business of determining whether those religions offer
18 greater or lesser value than Trinity? Or suppose there was an
19 atheist licensee that established a telephone line to convince
20 people to turn away from religion. The Commission could not
21 legitimately maintain the required stands of neutrality
22 towards religion if it awarded affirmative credit for this
23 directly religious activity. This is not, this is not the
24 question of whether something can be called religious; this is
25 directly religious activity, people offering prayer and people

1 who have decided to accept Jesus as their Savior, and this
2 argument has nothing to do with the free exercise of religion.
3 I'm not at all in the least challenging Trinity's right to
4 engage in this activity. The question is, is whether the
5 Commission will award affirmative renewal expectancy credit
6 for this type of religious activity.

7 MR. EMMONS: Well, Your Honor, I have a couple of
8 responses to that. First, the, what, what is called "Prayer
9 Line" has a component to it that has nothing to do with reli-
10 gion, as I think Mr. Schauble indicated. It has to do with a
11 referral if the person calls with a problem involving alcohol-
12 ism, for example, they'll be referred to an alcoholic counsel-
13 ing agency or something like that. That, that's a component
14 of this service to the community that comes under the general
15 rubric "prayer line." It has nothing to do with religion and
16 so we can't simply toss out "Prayer Line" on the theory that
17 it involves religion because it involves a good deal more than
18 that.

19 JUDGE CHACHKIN: No, the exhibit doesn't differenti-
20 ate the types of calls that come in.

21 MR. SCHAUBLE: Well, Your Honor --

22 JUDGE CHACHKIN: How am I supposed to make a deter-
23 mination as when it says, "At least a hundred people whom I
24 spoke during that period told me that they, they call the
25 station's prayer line for help with a problem after learning

1 about it through the station's programming. It was a vital
2 source of comfort at the time of need." There's no distinc-
3 tion made here between the type of help that was offered here,
4 whether it was a religious message or was dealing with a
5 specific problem. How am I supposed to draw a determination?

6 MR. SCHAUBLE: Well, Your Honor, may I --

7 JUDGE CHACHKIN: Which, which --

8 MR. SCHAUBLE: May I respond to that?

9 MR. EMMONS: Well, hold off for one --

10 JUDGE CHACHKIN: Well, let --

11 MR. EMMONS: -- second; hold on. My second point,
12 Your Honor, broadens that which, which, which is that the --
13 this is the -- what the Commission has called "community
14 outreach," that this, this is not broadcast material we're
15 talking about here. This is a, a, a telephone line service,
16 and in that sense it comes under what the Commission has
17 called community outreach, and the -- there, there is no
18 reason why a service that provides counseling, or inspiration
19 guidance, or spiritual comfort, or whatever, is not the kind
20 of a community service that ought to be recognized by the
21 Commission just as any others would be recognized. This
22 doesn't validate, it doesn't endorse; the Commission is not
23 endorsing any particular religion. It's simply recognizing
24 that this licensee is providing a service to the community
25 among the many kinds of services that, that licensees can

1 provide. I, I know that in other renewal cases, a, a
2 telephone line service for consumer complaints has been recog-
3 nized as relevant where if somebody buys a defective refriger-
4 ator and can't get satisfaction from a vendor, they call the
5 station's consumer line and the station gets involved in
6 mediating the dispute. And this, this doesn't endorse reli-
7 gion, and Mr., Mr. Schauble posed some hypothetical about what
8 if an Islamic licensee or, or a Jewish group did the same
9 thing. I think that would be splendid, Your Honor. This --
10 if this is a service to the community that is performed, it,
11 it can be recognized by the Commission without any suggestion
12 of endorsement. It doesn't offend the First Amendment in any
13 way for the Commission to recognize this, it doesn't get the
14 Commission involved in valuing one religion more than any
15 other religion; it's simply recognizing that this is a service
16 to the community that at least some members of the community
17 find valuable as the, as the testimony reflects.

18 JUDGE CHACHKIN: Bureau have a comment on this?

19 MR. SHOOK: Yes, Your Honor. The Bureau believes
20 that the prayer line and evidence related to it does -- is, is
21 relevant because of Criterion 5 of the renewal expectancy,
22 which deals with the presence or absence of any special effort
23 at community outreach. In terms of the value that one wants
24 to impart, we're not talking about a value here. We're simply
25 talking about whether some kind of outreach exists, and then

1 the nature of that outreach, and who's involved, how many
2 people are affected by it, and this evidence, I believe, you
3 know, does go to that criterion.

4 JUDGE CHACHKIN: Where, where do you have --

5 MR. SHOOK: I'm looking at the Fox decision,
6 Your Honor.

7 JUDGE CHACHKIN: Yes, and Fox, what, what was the
8 community outreach we were talking about in Fox?

9 MR. SHOOK: Your Honor, I --

10 JUDGE CHACHKIN: The cases that I've read, and I
11 know we had a conference on this, where a question was raised
12 where the religious programming -- the fact that a particular
13 subject was discussed on a religious programming -- well, let
14 me, let me start off this way. The court distinguished
15 between the type of religious programming that would be rele-
16 vant to a renewal expectancy, and what the court said, the
17 fact that the format was either a sermon or a discussion by
18 religious leaders was irrelevant if the subject matter was
19 nonreligious, but where -- that's the only type of evidence
20 that the Commission -- that the court said could come in, in
21 that area, which the court has never, as far as I know, the
22 court nor the Commission have ever said, that religious pro-
23 gramming per se is relevant to renewal expectancy.

24 MR. EMMONS: Well, Your Honor, the Pillar of Fire
25 initial decision, reading from the decision, paragraph 142 --

1 JUDGE CHACHKIN: Said what?

2 MR. EMMONS: That "24 public witnesses expressed
3 support for the station's programming, 20 citing its religious
4 and inspirational programs." Paragraph 149, "according to
5 Pappas --" who was the community witness -- "the station
6 broadcast God's message expressing the importance of the
7 individual, and helping each person take steps towards solving
8 their problems, and to be at peace with themselves." The,
9 what, again from Pillar, referring to a community witness,
10 "although he didn't listen to station WAWZ, he recognizes the
11 importance of religious broadcasting in strengthening the
12 traditional values of the family and expressed the view that
13 Station WAWZ should be allowed to continue this type of pro-
14 gramming." So that's a Commission case where this -- where,
15 where religious programming was at least found relevant
16 because it's in the initial decision --

17 MR. SCHAUBLE: Your Honor --

18 MR. EMMONS: -- and it was confirmed by the review
19 board.

20 JUDGE CHACHKIN: Go ahead.

21 MR. SHOOK: Your Honor, I, I thought that the point
22 that we were addressing here wasn't programming or the nature
23 of the programming but this prayer line, which is a
24 non-program activity of the Trinity station in Florida, and
25 which has to do with, you know, people calling the station and

1 | then people being available at the station to address whatever
2 | the calls may be, and the analogy given by Mr. Emmons that a
3 | credit in the nature of a, you know, presence of a special
4 | effort at community outreach would be given for a station that
5 | would have a consumer hot line, for example, that this is akin
6 | to that. It just happens to, you know, have a, a religious
7 | twist to it but in terms of an outreach effort, the Bureau
8 | believes that it is one.

9 | MR. SCHAUBLE: Your Honor --

10 | JUDGE CHACHKIN: The, the fact that the message only
11 | consists of -- let, let's ignore for the -- the special
12 | requests, all the other categories which were described which
13 | are contained in --

14 | MR. SHOOK: No, the Bureau, the Bureau is not sug-
15 | gesting that most of the requests that come in, you know, have
16 | some religious nature to them in, in the sense that a person
17 | is either requesting that a, a prayer be said for them, or
18 | because of something that happened, or that the person, you
19 | know, has some personal religious message that he or she wants
20 | to convey to the station, but, you know, we're not, we're not
21 | ascribing value to the content of whatever it is that the
22 | person is, is saying or receiving. We're just saying that
23 | there should be some credit given under this renewal criterion
24 | because those telephone lines exist.

25 | JUDGE CHACHKIN: Do you have any further comment?

1 MR. SCHAUBLE: Your Honor, several comments on that.
2 First, in terms of to what extent the, you know, to what
3 extent the various calls were broken down to -- at Tab L of
4 Exhibit 33, there are monthly reports listing the number of
5 calls in each category, and according to my calculations based
6 on those reports the special requests category were only just
7 over 2 percent of the total calls, so the vast majority of
8 calls we're talking about here are calls that fall within the
9 first four categories, and the records, the record does not
10 subdivide the number of calls in various subcategories of the
11 special requests, which, as I've mentioned previously, which
12 would include many things which I'd argued would not be rele-
13 vant as community outreach such as requests for Bibles, or a
14 message to a host, or somebody with a question or, or com-
15 plaint. As to the argument that there is no value being
16 ascribed to the -- to this activity, I very respectfully
17 disagree with that. I, I think the reason the Commission
18 gives community outreach credit is that, that community out-
19 reach is of some value to the community. I think the criter-
20 ion would be utterly illogical if, if credit was given for
21 community outreach credit which had no value whatsoever for
22 the community, and so therefore I think this run -- this does
23 have a constitutional problem, and that is -- in that if you
24 were giving affirmative renewal expectancy credits for this
25 type of activity, some sort of value as to the implicit

1 judgement as to the value this offers would be -- would have
2 to be made, and I think these exhibits here do attempt to make
3 the argument that this is a matter of value to the community.

4 JUDGE CHACHKIN: I will receive paragraph 5. We, we
5 do have evidence later on as to a breakdown of the type of
6 calls that come in but I think I'm inclined to agree with the
7 Bureau that it is community outreach and the Commission does
8 ascribe some credit to the existence of some kind of community
9 outreach, so I'm inclined to receive paragraph 5. Any other
10 objections?

11 MR. SCHAUBLE: Your Honor, on paragraph 6, I object
12 on the basis that this is a general conclusion with no, no
13 basis whatsoever provided.

14 MR. EMMONS: Well, Your Honor, the basis is the, the
15 information stated previously in this exhibit by this witness
16 concerning his own view of the station concerning his appear-
17 ances on the station and --

18 JUDGE CHACHKIN: Well, all he says he's -- two shows
19 that he mentions watching for a few hours, Lord -- "Praise the
20 Lord" and "Feedback," and also the -- he mentions the prayer
21 line which was not a program on the station, apparently. It
22 was done by using telephone lines. I don't think on that
23 basis he's, he's, he's in a position to render an opinion, an
24 overall opinion of, of the station's service to the community.
25 I don't think there's a factual basis for it whereby he has

1 demonstrated he has sufficient knowledge and information to
2 render an opinion.

3 MR. EMMONS: I, I want to point out, Your Honor,
4 that he, he's said he's watched the station for a few hours
5 nearly every day, which is a very heavy viewing schedule, I
6 would suggest, and the two programs that he's cited, "Praise
7 the Lord" and, and "Feedback," "Feedback" is the, the local
8 public affairs program at the station; "Praise the Lord" had a
9 local component to it as well. So I don't know how long can
10 one watch television more than a few hours nearly every day
11 without going crazy, Your Honor. I don't know how, how much
12 more qualified one can get.

13 JUDGE CHACHKIN: Well, maybe, perhaps, that, that,
14 that poses a dilemma, that a person trying to -- watching a
15 show a couple of hours a day is not in a position to render an
16 opinion on the overall program. That's why the Commission,
17 for instance, says if someone wants to complain about program-
18 ming, they have to submit tapes of, of, of programming over a
19 particular period of time. It used to be with the Fairness
20 Doctrine that if you objected, that you actually had to submit
21 tapes showing that you had watched the programming over a
22 period of time and presenting the tapes showing whereby that
23 you were therefore qualified to testify about the, the pro-
24 gramming. A mere listener who doesn't keep notes, and without
25 any notes or anything to come in here and say, "I have these

1 notes; I've watched X number of programming; I've summarized
2 each one of the programmings; and I've, I've -- or -- "I
3 didn't watch the program, I taped the program and later on
4 watched the tape," et cetera, et cetera, et cetera, "and based
5 on all that I'm -- I render that I think that the, the station
6 does X, Y, and Z." Perhaps some evidence like that might be
7 relevant as to the -- to his opinion of the station's program-
8 ming, but this type of evidence is not, in my opinion, the
9 type of evidence that could come in to testify about the
10 overall programming. He could testify about the particular
11 programs he has knowledge of, and by appearing on a program,
12 or a service provided by him by that station, so I'm going
13 to -- not going to receive paragraph 6. TBF Exhibit 4 is
14 received.

15 (Whereupon, the exhibit marked for
16 identification as TBF Exhibit 4 was
17 received into evidence.)

18 MR HONIG: Your Honor, I had one additional objec-
19 tion.

20 JUDGE CHACHKIN: Yes, what's that?

21 MR HONIG: I'm sorry. In paragraph 4, the second to
22 the last and third-last sentences, it's unclear whether the,
23 the, the sentence that begins, "I think that the station's
24 programming especially benefitted the area's minority commu-
25 nity by addressing problems of particular concern of that

1 community," he'd intended to expand upon the sentence
2 immediately preceding it which describes the station's pro-
3 gramming generally as unique because -- and, and nondenomina-
4 tional coverage of Christian concepts, or whether it's
5 intended to refer to issue-responsive programming such as that
6 addressed on the previous page.

7 MR. SCHAUBLE: Your Honor, it's my understanding
8 those sentences have, have been stricken.

9 JUDGE CHACHKIN: I did strike that sentence. I
10 don't understand --

11 MR HONIG: Were those both sentences stricken,
12 Your Honor?

13 JUDGE CHACHKIN: Yes.

14 MR HONIG: Okay, I'm sorry.

15 JUDGE CHACHKIN: All right. Let's go on to the next
16 exhibit.

17 MR. EMMONS: Your Honor, next TBF offers TBF
18 Exhibit 5, which is the declaration of Cleveland Bell, III.

19 JUDGE CHACHKIN: Any objections?

20 MR. SCHAUBLE: Yes, Your Honor. Page 2, para-
21 graph 5, I submit that this is too, too general and too vague
22 to have any, any weight whatsoever in the decision.

23 JUDGE CHACHKIN: Well, he's referring to his appear-
24 ance at the studio when he saw --

25 MR. SCHAUBLE: I'm sorry, Your Honor, I mean, I mean

1 paragraph 5 on page 2.

2 JUDGE CHACHKIN: Page 2. I'll receive paragraph 5
3 on page 2. There's sufficient information showing the basis
4 of his knowledge.

5 MR. SCHAUBLE: Okay, and also, Your Honor, para-
6 graph 6, on page 2; paragraph 3; I object on the basis of --

7 MR. SCHONMAN: Can you describe the sentence that
8 you're --

9 MR. SCHAUBLE: Oh, I'm sorry, I'm, I'm objecting to
10 the entire paragraph.

11 MR. SCHONMAN: Paragraph 6?

12 MR. SCHAUBLE: Paragraph 6 on page 2 going over to
13 page 3, on the basis of competence and relevancy here.
14 There's no specific program described. All he says is he's a
15 regular viewer and he doesn't say how much he watches.

16 JUDGE CHACHKIN: He doesn't identify the programs he
17 watches.

18 MR. SCHAUBLE: There's no programs identified.

19 JUDGE CHACHKIN: I won't receive paragraph 6. I
20 don't think it's competent. Any other objection? TBF
21 Exhibit 6 is received --

22 MR. EMMONS: Well, that was 5, Your Honor.

23 JUDGE CHACHKIN: Five, I mean, TBF's Exhibit 5 is
24 received, I'm sorry.

25 (Whereupon, the exhibit marked for

1 identification as TBF Exhibit 5 was
2 received into evidence.)

3 MR. EMMONS: Next TBF offers TBF Exhibit 6, the
4 declaration of Pastor George M. Beneby.

5 JUDGE CHACHKIN: Now, here he's referring to watch-
6 ing the program from 1986 through 1991. That's clearly out-
7 side the renewal period.

8 MR. EMMONS: Yes, Your Honor, I acknowledge that.
9 That, that was a mistake; the reference to 1986 was a mistake
10 but it's there. However, later in the testimony, for example,
11 in the very beginning of paragraph 2, the second sentence, the
12 witness refers to a particular date in 1991, December 1991, as
13 an appearance, and in general his testimony -- he testifies in
14 paragraph 3, for example, that he watched the station's pro-
15 grams regularly during the entire period of '86 through '91.
16 That necessarily encompasses the, the exact renewal term.

17 JUDGE CHACHKIN: It goes beyond it, too.

18 MR. EMMONS: It does go beyond it, Your Honor, but,
19 but, but his opinion is clearly based on the entirety of the,
20 of the period that he refers to, and it seems to me that the
21 only reasonable inference to draw is that, that what he's
22 saying about the programming applies for the, for the license
23 period, and, and he did say it extended beyond, beyond that by
24 a year in the beginning.

25 MR. SCHAUBLE: Your Honor, I think that's part of

1 the problem with this exhibit. As Mr. Emmons states, his
2 opinion is based upon the entirety of the period and it's --

3 JUDGE CHACHKIN: As far as I know --

4 MR. SCHAUBLE: -- including the period which part of
5 a period outside the renewal period.

6 JUDGE CHACHKIN: As far as I know, Mr. Emmons, this
7 is the declaration of Pastor Beneby and not your declara-
8 tion --

9 MR. EMMONS: Quite right.

10 JUDGE CHACHKIN: -- so I don't see how you can speak
11 on behalf of what he means.

12 MR. EMMONS: Well, I'm, I'm --

13 JUDGE CHACHKIN: All we can deal with is his decla-
14 ration, and since he's not here, we just have to accept what's
15 written here.

16 MR. EMMONS: Well, it's not --

17 JUDGE CHACHKIN: You can't speak on his behalf.

18 MR. EMMONS: No, I don't purport to speak on his
19 behalf, Your Honor. I simply purport -- what I, what I do is,
20 is submit that the reasonable inference to be drawn, I think,
21 from, from what he had said is as I described it.

22 JUDGE CHACHKIN: How could you draw an inference
23 from what someone else said in a declaration? His declaration
24 speaks for itself; he said what he said.

25 MR. EMMONS: I take the point, Your Honor.

1 JUDGE CHACHKIN: Again we, except for two
2 programs -- I assume we'll have exhibits on these two pro-
3 grams; I assume we'll have extensive material on these two
4 programs identifying and describing these programs, when it
5 was carried. We, we have general conclusions here as to the
6 station's overall programming.

7 MR. EMMONS: Yes, there's a great deal of material
8 in evidence elsewhere, Your Honor, about these two programs.

9 JUDGE CHACHKIN: But again we -- I have no problem
10 here, again, where this man testifies about things which he
11 had personal knowledge and involvement in. My difficulty is
12 in where he tries to draw general -- reach general conclusions
13 about the station's overall programming. I think the sta-
14 tion's overall programming will have to come from the exhibits
15 that the station puts in as to its programming, not from
16 beliefs and opinions, particularly ones made without any
17 factual basis. Maybe we'll --

18 MR. SCHAUBLE: Your Honor, may I --

19 JUDGE CHACHKIN: Maybe what we're fighting over is,
20 is, is -- what we're arguing over here is really of no moment
21 in the end because, as far as I know, there's no objection to
22 the station's description of it's programming, which, as I
23 say, will be the determinant of whether or not it's deserving
24 of renewal expectancy, and if no objection to that program-
25 ming, then all this arguing about it is, is -- and apparently

1 | there's no rebuttal case being put in, and I know Mr. Honig is
2 | putting in some information, but he's not talking about pro-
3 | gramming. He's talking about there, I gather, about what
4 | the -- what a review of the station's identifications of the
5 | needs it, it met. So we're, we're going to, we're going to
6 | spend a lot of time over these exhibits but in the end there
7 | really is apparently no rebuttal being offered and -- to the
8 | station's entitlement for renewal expectancy except for
9 | Mr. Honig. The Bureau apparently is not even questioning any
10 | of these -- any of the principals, employees of the station,
11 | as to renewal expectancy so we may be just be going through an
12 | exercise here because it may not make a difference in the long
13 | run without any objections or any rebuttals, it appears to me,
14 | that the, the station's programming we'll, we'll go with
15 | unrebutted.

16 | MR. SCHAUBLE: Your, Your Honor, if I may speak to
17 | that?

18 | JUDGE CHACHKIN: Yes.

19 | MR. SCHAUBLE: For Your Honor's information, Trinity
20 | and Glendale have entered into, entered into certain stipula-
21 | tions of testimony of Mr. Everett and Miss Downing, which
22 | would be in lieu of live cross-examination. Those, those will
23 | be going in as, as joint exhibits, and those will take the
24 | place of cross-examination of Mr. Everett, Miss Downing, and
25 | Miss Dressler.

1 JUDGE CHACHKIN: I understand that, but will there
2 be anything in there which will present a negative picture of
3 the station's programming? I mean, we could spend days and
4 days with each one of the exhibits but I'm wondering if in the
5 end whether we've accomplished anything.

6 MR. SCHAUBLE: Your Honor, there's -- a lot of
7 the -- I think a lot of the arguments Glendale eventually
8 intends to make is based upon the documentation which Trinity
9 is, is offering.

10 JUDGE CHACHKIN: Well, what arguments are you going
11 to make about that? That, that they put in evidence as to the
12 program they carried, the specific evidence of the nature of
13 the programs? That's the only thing in the record. What,
14 what argument are you going to make that they're not entitled
15 to renewal expectancy, what grounds are you going to argue?
16 You're not putting any rebuttal, apparently; you're not put-
17 ting any of your own witnesses on, so what, what is going to
18 be the basis of your contention they're not entitled to
19 renewal expectancy? Assuming none of this general material is
20 allowed in, and let's take that for a premise, that none of
21 this general material is allowed in and all we have is the
22 specifics.

23 MR. SCHAUBLE: Your Honor --

24 JUDGE CHACHKIN: What difference is it going to make
25 in the, in the long run here?

1 MR. SCHAUBLE: Your Honor, our, our argument is
2 going to be that based upon descriptions of Trinity's program-
3 ming, that much of, much of their programming is not truly
4 issue-responsive programming, and that the programming they
5 did offer is not sufficient to merit a renewal expectancy, and
6 that also that there were certain, based upon their documenta-
7 tion, that there were certain defects in their ascertainment
8 process.

9 JUDGE CHACHKIN: Well, if that's the case, it's not
10 going to make any difference people have, if you could show
11 that, in fact, their description or identification of programs
12 is, is, is in error.

13 MR. SCHAUBLE: And so I would, I would, I would
14 agree with Your Honor that this -- these general opinions
15 add --

16 JUDGE CHACHKIN: They're not going to enhance the
17 picture, these general opinions, but we'll go on. I'll just
18 make quick rulings and we'll move on. There's no sense wast-
19 ing too much time on this because it's the programming as
20 represented in the station's exhibits that's going to be the
21 most important thing.

22 MR. SCHAUBLE: Your Honor, if I, if I could just --
23 on paragraph 2?

24 JUDGE CHACHKIN: Yes.

25 MR. SCHAUBLE: Beginning the third sentence, "prior

1 to that time" on to the end of the paragraph, I object on the
2 basis that no showing that this is within the renewal period
3 because the witness refers to a 1986 to 1991 time frame.

4 MR. EMMONS: Your, Your Honor, if I can speak to
5 that?

6 JUDGE CHACHKIN: Let me ask you, do you have exhib-
7 its which showed when this individual was interviewed?

8 MR. EMMONS: Well, Your Honor, I, I don't think so
9 but we do have in the first paragraph, the first sentence of
10 this, the witness states that this organization called "Street
11 Church" --

12 JUDGE CHACHKIN: All right, he -- that's what I --

13 MR. EMMONS: -- was founded in 1987, and so that
14 would automatically place the sentence that Mr. Schauble was
15 referring to now -- the interview about that Street Church
16 obviously took place in 1987 or after.

17 JUDGE CHACHKIN: All right, the objection is over-
18 ruled.

19 MR. SCHAUBLE: Your Honor, I also object to para-
20 graph 3 on the basis of relevance that this person's opinion
21 as offered is not relevant in three; that insufficient were
22 shown for this individual's opinion to make a -- and therefore
23 it's not relevant --

24 JUDGE CHACHKIN: I'll, I'll sustain your objection
25 of paragraph 3 on the grounds of competence. Anything else?

1 MR. SCHAUBLE: Paragraph 4, I object to the last
2 sentence on the basis of competence.

3 JUDGE CHACHKIN: I won't receive the last sentence.
4 It's too -- it doesn't contain any facts, just generalities.

5 MR. SCHAUBLE: And also, Your Honor, the first two
6 sentences of paragraph 4, I object on the basis of the, of the
7 time period. He lists 1986 which is outside the period
8 through 1991.

9 JUDGE CHACHKIN: Well, the only specific matter
10 there is, is the receiving and storing of canned goods.

11 MR. EMMONS: Your Honor, that, that's independently
12 established in the record elsewhere as being -- as having
13 occurred during the renewal term. I believe the testimony of
14 Michael Everett, the general manager --

15 JUDGE CHACHKIN: All right.

16 MR. EMMONS: -- at Exhibit 32 talks about that in
17 paragraph 4 --

18 JUDGE CHACHKIN: If that's the case, we'll be bound
19 by the dates in Michael Everett's testimony. I'll receive
20 TBF Exhibit 6.

21 (Whereupon, the exhibit marked for
22 identification as TBF Exhibit 6 was
23 received into evidence.)

24 MR. EMMONS: Next, Your Honor, TBF offers TBF
25 Exhibit 7, the declaration of Gregory C. Brown.

1 JUDGE CHACHKIN: Any objections?

2 MR. SCHAUBLE: Yes, Your Honor, on paragraph 1, I
3 presume that Your Honor will, will similarly reserve ruling
4 on, on the date?

5 JUDGE CHACHKIN: Yes.

6 MR. SCHAUBLE: On paragraph 4, I object to the
7 entire paragraph on the basis of -- for the reasons stated
8 previously. I don't believe the -- that Prayer Line is a
9 cognizable community involvement, and I also object on, I
10 mean, another specific objection from the third sentence down
11 that on the basis of relevance, even assuming that the prayer
12 line has some relevance that this -- I object on the basis
13 that this, this explanation has no independent of itself -- in
14 and of itself.

15 JUDGE CHACHKIN: Well, this deals with the community
16 outreach. I'll overrule your objection.

17 MR. SCHAUBLE: Your Honor, on paragraph 5 --

18 JUDGE CHACHKIN: Yes?

19 MR. SCHAUBLE: -- I object to from the beginning of
20 the paragraph where it says "90 percent of the people" to the
21 sentence that ends on the second-to-last line, "crisis on the
22 telephone" on the, on the same basis, on the grounds of rele-
23 vance, objecting to the relevance of the prayer line. And
24 also, with respect to the remainder of that paragraph, I
25 object on, on the basis of relevance, and also on the matter

1 of -- on the basis of competence. "I believe that there are
2 at least six people alive today because I spoke to them on the
3 prayer line when there was a person ready to commit suicide."
4 I -- there's no --

5 JUDGE CHACHKIN: Well, we can go through this and --
6 this exhibit and recognizing where there's no factual basis,
7 it will be ignored, and the only part will be considered for
8 community outreach are those on which there's a factual basis
9 and which he has personal knowledge of. I'm not going to go
10 through line by line. I don't think any purpose will be
11 served so I will receive paragraphs 5 and 6, again with the
12 understanding if there's no factual support for it, it will be
13 ignored. Any objections to the rest of the exhibit? Again we
14 get to paragraph 8 for watching the station on a regular
15 basis, and again I'm not going to receive this as, as demon-
16 strating the station's entitlement to renewal expectancy.
17 What I propose to rely on is competent evidence, i.e., the
18 exhibit material which the station will present as to its
19 programming.

20 MR. EMMONS: Your Honor, may I make a, a suggestion
21 at this point? I wonder if it would, it would expedite the
22 proceeding if the -- these exhibits were, were received but
23 with the caveat, whatever caveat Your Honor wishes to place on
24 them in general in terms of what could be relied on and what
25 wouldn't. That way we wouldn't need to go through each

1 exhibit line by line.

2 JUDGE CHACHKIN: Well, perhaps we can. In my --
3 what I intend to receive is only those portions, factual
4 portions, which, which the, which the declarant demonstrates
5 personal knowledge of the facts, and the remainder of the
6 exhibit which deals with general statements as to programming
7 on which there's no factual basis for will not be considered.

8 MR. SCHAUBLE: Your Honor, I, I think I -- in order
9 to avoid any argument that Glendale has waived its rights, I
10 think I would -- I'd like to at least briefly state the -- go
11 through the exhibits quickly and go through the areas that I'm
12 objecting to.

13 JUDGE CHACHKIN: All right.

14 MR. SCHAUBLE: I, I'll submit there also may be
15 areas where TBF may disagree as to whether that policy is
16 applicable. It may try and argue that in, in the case of an
17 exhibit that there is a specific basis.

18 MR. EMMONS: Well, well, to expedite matters, if, if
19 Your Honor is going to receive these subject to the caveats
20 that you generally stated, I wouldn't need to make any further
21 argument. Certainly Mr. Schauble has a right to make any
22 whatever argument he would want to, to, to put his position on
23 the record, but we could receive them all and whatever
24 Your Honor thought was worthy of consideration in, in the
25 initial decision, Your Honor would consider, and whatever

1 Your Honor thought wasn't worthy of consideration, Your Honor
2 wouldn't, wouldn't consider, and everybody's position would be
3 protected on the record from what we said so far, I think.

4 MR. SCHAUBLE: Well, Your Honor, the problem is if
5 it's, if, if it's in the record, you know, you know, it's in,
6 it's in the record for not, not only Your Honor, but also
7 higher authorities to consider as, consider as evidence, and I
8 think --

9 JUDGE CHACHKIN: Well, I think the best thing to do
10 is just have short objections, and quick rulings, and move on
11 the best we can. Any other objections? We're down with
12 paragraph 7. Anybody have -- as far as paragraph 7, do you
13 have any objection?

14 MR. SCHAUBLE: Paragraph 7.

15 JUDGE CHACHKIN: I assume this deals -- what does
16 this deal with, outreach or what?

17 MR. SCHAUBLE: Yes, that, that was -- that is one of
18 the station's outreach activities.

19 JUDGE CHACHKIN: All right.

20 MR. SCHAUBLE: I think my next, my next objection
21 would be to paragraph 8, which I think you --

22 JUDGE CHACHKIN: Paragraph 8 is rejected. Para-
23 graph --

24 MR. SCHAUBLE: Paragraph 9 I have no objection to.

25 JUDGE CHACHKIN: Is received. All right. TBF